

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>TAGAWA GREENHOUSES, INC.,</p> <p>v.</p> <p>Respondent:</p> <p>WELD COUNTY BOARD OF COMMISSIONERS.</p>	
<p>Attorney for the Petitioner:</p> <p>Name: William A. McLain, Esq. Address: 3962 S. Olive Street Denver, Colorado 80237 Phone Number: (303) 759-0387 Attorney Reg. No.: 6941</p>	<p>Docket Number: 40171</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on October 12, 2004, Karen E. Hart and Sondra W. Mercier presiding. Petitioner was represented by William A. McLain, Esq. Respondent was represented by Cyndy Giauque, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax years 1999 and 2000.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**17999 Weld County Rd. 4, Brighton, Colorado
Weld County Schedule Nos. R6411486 and R6265186**

The subject property consists of 78.26 acres of land classified as agricultural, 34.50 acres of land classified as other agricultural, approximately 725,000 square feet of greenhouse structures, a

residence and several warehouse, office and utility buildings. For tax years 1999 and 2000, the property was used in growing plant and agricultural products.

ISSUES:

Petitioner:

Petitioner contends that the subject property was overvalued. The property should be valued using the cost approach with external obsolescence deducted due to industry-specific economic conditions.

Respondent:

Respondent contends that all three approaches to value should be considered; however, the greatest reliance should be placed on the income approach.

FINDINGS OF FACT:

1. Petitioner's witness, Mr. Ronald Sandstrom with F&S Tax Consultants, presented the following indicator of value:

Cost Approach:	\$1,394,628.00
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2. Mr. Sandstrom concluded to a total agricultural land value of \$41,778.00 and a total other agricultural land value of \$86,250.00, equal to the Respondent's assigned land values. Petitioner agrees with Respondent's land size, classification, and value.

3. Petitioner's witness relied on the Marshall Valuation Service manual for November 1996 to calculate individual building costs and then multiplied the costs by the July 1998 Current Cost Multiplier.

4. Based on the cost approach, Petitioner's witness concluded to a value of \$123,967.00 for the residence. However, the cost approach cannot be considered in the valuation of residential properties for ad valorem tax purposes.

5. Mr. Sandstrom testified that the other agricultural improvements, including the greenhouses, hoop houses, warehouses, utility and maintenance buildings, had a total replacement cost new less physical depreciation of \$2,856,583.00. Mr. Sandstrom made adjustments for building height, perimeter measurement, office finish, and space heaters as appropriate. Mr. Sandstrom also adjusted the cost of the greenhouse buildings for specific structural features where required. Depreciation for physical deterioration was deducted based on the effective age of each individual building. The Division of Property Taxation's local multiplier adjustment of 0.981 was applied to

each building's cost value. The Petitioner's witness considered boilers, fans and other equipment to be personal property and did not include the cost for those items in his analysis.

6. The Petitioner's witness testified that a total of 12.5 million square feet of greenhouse space existed in Colorado in 1977, with cut flowers representing 8.9 million square feet. By 1996, the amount of greenhouse space had declined substantially and cut flowers occupied only 3.5 million square feet. Mr. Sandstrom believes that the significant decline in greenhouse square footage and cut flower occupancy warrants a further value deduction based on external obsolescence.

7. Mr. Sandstrom calculated economic obsolescence based on his analysis of three sales of greenhouse properties that occurred or were under option within the base period. However, Petitioner's third sale was only under option, not under contract, during the base period and thus could not be considered by the Board. He deducted the residential building value as well as an allocated land value for each property based on individual location characteristics. Depreciation for physical deterioration was deducted for each building based on effective age. The external obsolescence calculated for the two remaining sales ranged from 63.85 to 83.86 percent.

8. Based on his analysis of the sales presented, Mr. Sandstrom concluded that the subject's value should be reduced by 60 percent or \$1,713,950.00 to account for economic obsolescence. He concluded that the total value of other agricultural improvements was \$1,142,633.00.

9. Petitioner's total value based on the Cost Approach was calculated as follows:

Agricultural Land	\$ 41,778.00
Other Ag Land	\$ 86,250.00
Residential Improvements	\$ 123,967.00
Other Ag Improvements	<u>\$ 1,142,633.00</u>
Total Value	\$ 1,394,628.00

10. Petitioner is requesting a 1999 and 2000 actual value of \$1,394,628.00 for the subject property.

11. Respondent's witness, Mr. Michael F. Sampson, a Certified General Appraiser with the Weld County Assessor's Office, presented the following indicators of value:

Income:	\$3,950,000.00
Market:	\$3,625,000.00

12. The Respondent's witness did not perform a Cost Approach. However, the Weld County Assessor's computer records were included under the section of the report titled "Cost Approach." Mr. Sampson testified that he was unsure as to what method of valuation was used in the computer-generated model for the period of time being discussed. He was of the opinion that the information generally represented cost figures for individual buildings and that the values did not include fans or other related equipment classified as personal property.

13. Mr. Sampson provided a separate income analysis for each of the subject property's buildings, based on type of use. Individual comparable rental rates were determined for greenhouses, warehouses, residences, office, and shop buildings. Mr. Sampson also provided a separate capitalization analysis for each property type. His analysis included lease information for four greenhouse properties and associated structures necessary to the business and land. The per square foot lease rates, based on greenhouse square footage only, ranged from \$0.22 to \$1.26 per square foot, net of expenses. These lease rates also included income attributable to items considered personal property, which he believes are required for the operation of a greenhouse.

14. Mr. Sampson testified that in order to reflect the appropriate value for the subject as a single operation, a 15 percent reduction in the total concluded value based on the individual building valuations was appropriate. This percentage was the median of a 10 to 20 percent difference between the income approach value based on lease rates for a single operation compared to \$5.00 per square foot from the market approach. He concluded to a value by the income approach of \$3,950,000.00, the mid--range between pure income from individual building types valued at \$4,400,000.00 and the value conclusion with a 15 percent reduction for a single use greenhouse operation shown as \$3,740,000.00.

15. Mr. Sampson included six sales in his market approach analysis. However, Comparable Sales 3, 4 and 5 transacted outside the base period and could not be considered. Comparable Sales 1, 2, and 6 indicated a range in value of \$3.35 to \$5.58 per square foot. He calculated the per square foot prices by dividing the total sale price by only the greenhouse square footage, although some of the comparables included residences and other structures. No adjustments were made to the comparable sales for differences in building size, associated structures, land size or location.

16. In addition to his analysis of greenhouse sales, Mr. Sampson analyzed the additional buildings associated with the subject on a separate basis according to building use, with sales comparables provided for recent office warehouse and warehouse structures. These individual values were then added to the value concluded for the greenhouse portion of the subject for a total value conclusion of \$3,625,000.00. No adjustments were made to the comparable sales to reflect differences in size, condition, inclusion of personal property, or location.

17. Respondent assigned an actual value of \$3,739,776.00 to the subject property for tax years 1999 and 2000.

CONCLUSIONS:

1. Petitioner presented sufficient probative evidence and testimony to prove that the valuation of the subject property for tax years 1999 and 2000 was incorrect.
2. There was no dispute regarding the subject property's assigned land values.
3. The Board cannot consider Petitioner's value for the residence based on the cost approach; only the market approach to value may be used to value residential properties for ad

valorem purposes. Lacking evidence to the contrary, the Board must conclude that Respondent's assigned value of \$105,625.00 for the residence, based on the market approach, is correct.

4. The Board was convinced that the Petitioner's witness provided an accurate analysis of the replacement cost new less physical depreciation for the subject. However, the Board was not convinced that Petitioner's adjustment for external obsolescence was appropriate. Petitioner presented only two usable sales in his economic obsolescence analysis and the Board determined that more information was needed regarding these sales, as well as a larger sales sample, to determine if the calculations were accurately measuring only obsolescence and not reflecting any other factors that affect value. The Board concluded that inadequate information was provided to prove that outside market conditions caused a direct negative affect on the value of the subject. The Board determined that Petitioner's improvement value of \$2,856,583.00, without further reduction for economic obsolescence, accurately reflects the correct value of the subject property's non-residential improvements.

5. Respondent's witness did not perform a cost approach. Mr. Sampson admitted that the value shown in Respondent's Exhibit 1 under the heading "Cost Approach" is not supported by any specific valuation method and he could not testify as to the methodology used to arrive at the computer generated values contained in the exhibit. Therefore, it will not be considered by the Board.

6. In the Board's opinion, Mr. Sampson incorrectly valued the subject in both the Income and Market Approaches by valuing each building type associated with the subject on a separate basis and then adding the values together to conclude a total actual value. The Uniform Standards of Professional Appraisal Practice Standards Rule 1-4 (e) states "*An appraiser must analyze the effect on value, if any, of the assemblage of the various estates or component parts of a property and refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.*" Mr. Sampson testified that he considered the affect of the assemblage on the total value by adjusting the concluded total actual value by 15 percent. However, insufficient evidence was presented to support the adjustment. The Board is not convinced that this methodology accurately reflects the value of the subject property when considered as a single operation. The subject property, though consisting of various types of buildings, is one operation and the Board concludes that the various buildings are used solely for the greenhouse operation. We do not believe the various buildings would be rented or sold as individual buildings, but would be rented or sold as one total package as a greenhouse operation with necessary support buildings and should be valued as such, using data from other similar greenhouse operations.

7. The Board concluded that the 2003 actual value of the subject property should be reduced to \$3,090,236.00, with value allocations as follows:

Agricultural Land	\$ 41,778.00
Other Ag Land	\$ 86,250.00
Residential Improvements	\$ 105,625.00
Other Ag Improvements	<u>\$2,856,583.00</u>
Total Value	\$3,090,236.00

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a 1999 and 2000 actual value for the subject property of \$3,090,236.00.

The Weld County Assessor is directed to change his/her records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 24th day of November 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Sondra W Mercier

Sondra W. Mercier

This decision was put on the record

NOV 24 2004

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Penny S. Lowenthal
Penny S. Lowenthal

